

Assembly Bill No. 348

Passed the Assembly May 15, 2003

Chief Clerk of the Assembly

Passed the Senate July 7, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 5152, 5154, 5257, 5259.3, 5264, 5267, and 5270.35 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 348, Chu. Mental health: involuntary confinement: psychologists.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary detention and treatment of any person with a mental disorder who, as a result of the mental disorder, is a danger to others or to himself or herself, or is gravely disabled.

Existing law establishes various requirements with respect to determinations to be made by a psychiatrist directly responsible for a person's treatment for the initial detention for evaluation and treatment under the act, for various subsequent periods of confinement for treatment under the act, and for the release of any person subject to the act.

This bill would provide that a psychologist who has personally evaluated or examined a person and has a collaborative treatment relationship with the psychiatrist may also recommend the person's early release in certain situations. This bill would require the psychologist and psychiatrist to consult with one another before either may recommend the person's release. In the event that either the psychiatrist or psychologist recommends the person's release and the other does not, this bill would provide that the person may not be released unless the medical director of the facility where the person is being treated overrules the decision of the psychiatrist or psychologist opposing the release.

This bill would also provide that its provisions shall not be construed to revise or to expand the scope of practice, as defined, of psychologists.

The people of the State of California do enact as follows:

SECTION 1. Section 5152 of the Welfare and Institutions Code is amended to read:



5152. (a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is placed under a 72-hour hold and there is a collaborative treatment relationship between the psychiatrist and psychologist, either the psychiatrist or psychologist may authorize the release of the person from the hold, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who has been placed under a 72-hour hold, the hold shall be maintained unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.

(b) Any person who has been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

(c) A person designated by the mental health facility shall give to any person who has been detained at that facility for evaluation and treatment and who is receiving medication as a result of his or



her mental illness, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication. The State Department of Mental Health shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

(1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

(2) The likelihood of improving or not improving without the medication.

(3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medication, and the probable length of time the medication will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 2. Section 5154 of the Welfare and Institutions Code is amended to read:

5154. (a) Notwithstanding Section 5113, if the provisions of Section 5152 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical



director of the facility or his or her designee described in Section 5152, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 3. Section 5257 of the Welfare and Institutions Code is amended to read:

5257. (a) During the period of intensive treatment pursuant to Section 5250 or 5270.15, the person's involuntary detention shall be terminated and the person shall be released only if the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is undergoing intensive treatment and there is a collaborative treatment relationship between the psychiatrist and the psychologist, either the psychiatrist or psychologist may authorize the release of the person, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who is undergoing intensive treatment, the person may not be released unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released during the designated period of intensive treatment, and the psychiatrist directly responsible for the person's treatment objects, the matter



shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released during the period of intensive treatment only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled. Nothing herein shall prohibit the person from remaining at the facility on a voluntary basis or prevent the facility from providing the person with appropriate referral information concerning mental health services.

(b) A person who has been certified for a period of intensive treatment pursuant to Section 5250 shall be released at the end of 14 days unless the patient either:

- (1) Agrees to receive further treatment on a voluntary basis.
- (2) Is certified for an additional 14 days of intensive treatment pursuant to Article 4.5 (commencing with Section 5260).
- (3) Is certified for an additional 30 days of intensive treatment pursuant to Article 4.7 (commencing with Section 5270.10).
- (4) Is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).
- (5) Is the subject of a petition for postcertification treatment of a dangerous person filed pursuant to Article 6 (commencing with Section 5300).

(c) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 4. Section 5259.3 of the Welfare and Institutions Code is amended to read:

5259.3. (a) Notwithstanding Section 5113, if the provisions of Section 5257 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5257, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or



criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5257, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released at the end of the 14 days pursuant to this article.

(c) The attorney or advocate representing the person, the court-appointed commissioner or referee, the certification review hearing officer conducting the certification review hearing, and the peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of 14 days pursuant to this article.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 5. Section 5264 of the Welfare and Institutions Code is amended to read:

5264. (a) A certification for imminently suicidal persons shall be for no more than 14 days of intensive treatment, and shall terminate only as soon as the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person has improved sufficiently for him or her to leave, or is prepared to voluntarily accept treatment on referral or to remain on a voluntary basis in the facility providing intensive treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is undergoing intensive treatment and there is a collaborative treatment relationship between the psychiatrist and psychologist, either the psychiatrist or psychologist may authorize the release of the person, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who is undergoing intensive treatment, the person may not be released unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing



the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 14 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 14 days have elapsed only if the psychiatrist believes, as a result of the psychiatrist's personal observations, that the person has improved sufficiently for him or her to leave, or is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis.

(b) Any person who has been certified for 14 days of intensive treatment under this article and to whom Section 5226.1 is not applicable, or with respect to whom the criminal charge has been dismissed under Section 5226.1, shall be released at the end of the 14 days unless any of the following applies:

(1) The patient agrees to receive further treatment on a voluntary basis.

(2) The patient has been recommended for conservatorship pursuant to Chapter 3 (commencing with Section 5350).

(3) The patient is a person to whom Article 6 (commencing with Section 5300) of this chapter is applicable.

(c) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 6. Section 5267 of the Welfare and Institutions Code is amended to read:

5267. (a) Notwithstanding Section 5113, if the provisions of Section 5264 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5264, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or



criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5264, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released at the end of 14 days pursuant to this article.

(c) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 7. Section 5270.35 of the Welfare and Institutions Code is amended to read:

5270.35. (a) A certification pursuant to this article shall be for no more than 30 days of intensive treatment, and shall terminate only as soon as the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer meets the criteria for the certification, or is prepared to voluntarily accept treatment on a referral basis or to remain on a voluntary basis in the facility providing intensive treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is undergoing intensive treatment and there is a collaborative treatment relationship between the psychiatrist and the psychologist, either the psychiatrist or psychologist may authorize the release of the person but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who is undergoing intensive treatment, the person may not be released unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 30 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical



director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 30 days have elapsed only if the psychiatrist believes, as a result of the psychiatrist's personal observations, that the person no longer meets the criteria for certification, or is prepared to voluntarily accept treatment on referral or to remain on a voluntary basis in the facility providing intensive treatment.

(b) Any person who has been certified for 30 days of intensive treatment under this article, shall be released at the end of 30 days unless one or more of the following is applicable:

(1) The patient agrees to receive further treatment on a voluntary basis.

(2) The patient is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).

(3) The patient is the subject of a petition for postcertification treatment of a dangerous person filed pursuant to Article 6 (commencing with Section 5300).

(c) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.



Approved _____, 2003

Governor

